

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

RICKY WHITE,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-18-1072-R
)	
JAMES YATES, Warden,)	
)	
Respondent.)	

ORDER

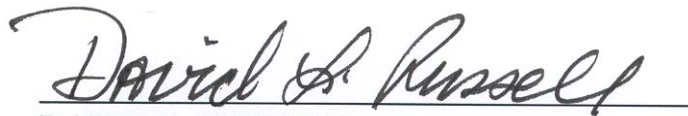
Before the Court is Petitioner's Objection to the November 28, 2018 Report and Recommendation issued by United States Magistrate Judge Bernard M. Jones. Therein Judge Jones recommended that Mr. White's 28 U.S.C. § 2254 Petition be dismissed as second or successive, noting that, although Petitioner labeled his petition as one seeking relief under § 2241, he was in reality challenging the validity of his conviction and sentence under § 2254, which he has attempted to do numerous times since his 1983 conviction. In his objection, Petitioner does not challenge Judge Jones' conclusion that his Petition is second or successive.¹ Rather, he requests that this Court transfer his petition to the United States Court of Appeals for the Tenth Circuit so that he may seek permission to file this § 2254 Petition.²

¹ In his objection Petitioner reiterates his request for counsel and an evidentiary hearing. Both requests, however, are irrelevant to the underlying issue regarding the successive nature of his Petition and whether the Court should dismiss the Petition or transfer it to the Circuit.

² As noted in the Report and Recommendation Petitioner unsuccessfully sought such permission at least three times before, his most recent attempt having been denied in April 2018.

Judge Jones considered whether the Petition should be dismissed or transferred and concluded that, given Petitioner's history, transfer would not be in the interests of justice. Nothing in the objection to the Report and Recommendation rebuts Judge Jones' conclusion that, in light of Petitioner's long history of seeking relief in two federal district courts and from the Tenth Circuit, the Court should dismiss rather than transfer this action. Accordingly, the Court hereby adopts the Report and Recommendation and this Petition is DISMISSED as second or successive.

IT IS SO ORDERED this 3rd day of January 2019.



DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE